



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

[original dated August 11, 2004]

Celeste Cantú, Executive Director  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Dear Ms. Cantú:

The Environmental Protection Agency (EPA) has reviewed the amendment to the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (Basin Plan) that establishes new water quality objectives for diazinon in the Sacramento and Feather Rivers. I am pleased to inform you that we are approving this amendment.

The subject amendment was adopted by the Central Valley Regional Water Quality Control Board (CVRWQCB, Regional Board) on October 16, 2003 under CVRWQCB Resolution No. R5-2003-0148. It was approved by the State Water Resources Control Board (SWRCB) on April 22, 2004 under SWRCB Resolution No. 2004-0022, and by the California Office of Administrative Law on June 9, 2004. The State Board attempted to submit the amendment to EPA for approval on June 25, 2004; however, that package was not received, so the State Board re-submitted the amendment to EPA on July 9, 2004. That package was received by EPA on July 12, 2004.

CVRWQCB Resolution No. R5-2003-0148 amended the Basin Plan to establish numeric water quality objectives for diazinon in the Sacramento and Feather Rivers by adding the following language to the "Pesticides" section of Chapter III, Water Quality Objectives:

*"Pesticide concentrations shall not exceed the levels identified in Table III-2A.*  
[this text is to be placed before the statement: "Where more than one objective may be applicable, the most stringent objective applies".]

TABLE III-2A  
SPECIFIC PESTICIDE OBJECTIVES

<u>PESTICIDE</u>	<u>MAXIMUM CONCENTRATION AND AVERAGING PERIOD</u>	<u>APPLICABLE WATER BODIES</u>
Diazinon	0.080 µg/L ; 1-hour average 0.050 µg/L ; 4-day average Not to be exceeded more than once every three years on average.	Sacramento River from Shasta Dam to Colusa Basin Drain (13) and the Sacramento River from the Colusa Basin Drain to I Street Bridge (30). Feather River from Fish Barrier Dam to Sacramento River (40)."

## **Today's Action**

Section 303(c) of the Clean Water Act (CWA) requires EPA to approve or disapprove new or revised state-adopted water quality standards. The State regulatory provisions that are subject to EPA's approval authority under Section 303(c) are those addressing antidegradation, beneficial uses, water quality criteria, and implementation of water quality standards for surface waters.

EPA has determined that the above Basin Plan amendment is subject to EPA's section 303(c) approval authority. Pursuant to CWA section 303(c) and the implementing federal regulations at 40 CFR 131, EPA hereby approves this amendment. EPA's approval is based on our finding that the amendment is consistent with the requirements of the CWA and EPA's regulations at 40 CFR 131.5 and 131.6, and is subject to the results of consultation under section 7 of the Endangered Species Act (ESA).

In addition to establishing new water quality objectives for diazinon in the Sacramento and Feather Rivers, CVRWQCB Resolution No. R5-2003-0148 established a Total Maximum Daily Load (TMDL) for diazinon in those water bodies. In this letter, EPA is approving only the water quality objectives component of the Resolution. EPA is addressing the TMDL component in a separate action.

## **Public Participation**

EPA compliments the State on its efforts to include the public in the development and review of new and revised water quality standards. Public involvement is an integral component of a successful water quality program. Based upon our review, the public review procedures followed by the State in the development of Regional Board Resolution No. R5-2003-0148 and State Board Resolution No. 2004-0022 were consistent with the procedural requirements for public participation in triennial reviews, adoption, and revision of state water quality standards.

## **ESA Consultation with the Services on EPA's Action**

Section 7(a)(2) of the Endangered Species Act states that each federal agency shall ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species (listed species) or result in the destruction or adverse modification of critical habitat. On October 6, 2003, EPA Region 9 initiated informal consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service regarding today's action. In a separate action on December 31, 2003, EPA published draft national water quality criteria guidance for diazinon under CWA section 304(a). That guidance is expected to be finalized within a year. Pursuant to the August 2002 Memorandum of Agreement Between the Environmental Protection Agency, Fish and Wildlife Service, and National Marine Fisheries Service Regarding Enhanced Coordination Under the Clean Water Act and Endangered Species Act (MOA, EPA-823-R-02-003), EPA is consulting with FWS and NMFS on national 304(a) criteria. The MOA provides that, during the national 304(a) consultations, EPA may approve state water quality criteria that are identical or more stringent than the existing 304(a) criteria, pending the results of the national consultations, and that such action will be covered by the national consultation. The diazinon objectives adopted

for the Sacramento and Feather Rivers are more stringent than the draft national criteria. Accordingly, EPA is deferring further consultation on this action pending completion of consultation on the final national criteria, and is approving the objectives subject to the results of consultation under section 7 of the ESA.

### **Relationship of Today's Action to Previous Actions on Amendments to the Basin Plan**

EPA's last action on water quality standards amendments to this basin plan was taken on January 6, 2004, at which time we approved the water quality standards provisions of State Board Resolution No. 2003-0059 (re: Regional Board Resolution No. R5-2002-0151). Today's action does not alter the conditions and interpretations of our previous water quality standards action letters of December 30, 1975, May 28, 1976, June 2, 1976, September 20, 1984, August 7, 1985, April 13, 1990, May 24, 2000, May 26, 2000, September 26, 2003, October 15, 2003, and January 6, 2004 for this basin plan.

### **Water Quality Standards Applicable to the Sacramento River and San Joaquin River Basins**

The federally-approved water quality standards applicable to the Sacramento River and San Joaquin River Basins are now embodied in the following documents:

- Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition, 1998, as amended by CVRWQCB Resolution R5-2003-0148, CVRWQCB Resolution No. R5-2002-0207, CVRWQCB Resolution No. R5-2002-0127 (as approved by State Board Resolution No. 2003-007), and CVRWQCB Resolution No. R5-2002-0151 (as approved by State Board Resolution No. 2003-0059;
- Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California, as amended by State Board Resolution 75-89, September 1975;
- Water Quality Control Policy for the Enclosed Bays and Estuaries of California, May 1974;
- Resolution 68-16, Statement of Policy with Respect to Maintaining High Quality of Waters in California, as supplemented by State Board Order No. WQ 86-17;
- Memorandum to Regional Board Executive Officers from State Water Resources Control Board, Subject: Federal Antidegradation Policy. Oct. 7, 1987;
- Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (1995 Bay/Delta Plan), SB Resolution 95-24, May 1995; and
- Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, 2000.

The following federally promulgated standards are also applicable to these waters:

- Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants; States' Compliance Final Rule, 40 CFR 131.36, as amended May 4, 1995;
- Water Quality Standards for Surface Waters of the Sacramento River, San Joaquin River, and San Francisco Bay and Delta of the State of California (40 CFR 131.37) applicable to waters specified in the Water Quality Control Plan for Salinity for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, adopted by the California State Water Resources Control Board in State Board Resolution No. 91-34 on May 1, 1991; and
- Water Quality Standards; Establishment of Numeric Criteria for Priority Toxic Pollutants for the State of California, Final Rule (the California Toxics Rule or CTR), 65 FR 31681, May 18, 2000.

EPA commends the Central Valley Regional Board staff for its excellent work in establishing numeric water quality objectives for diazinon in the Sacramento and Feather Rivers. If there are any questions regarding EPA's action, please contact Kathleen Goforth, of my staff, at 415-972-3521. As always, EPA looks forward to continued cooperation with the State in achieving our mutual environmental goals.

Sincerely,

*[original signed by Nancy Woo for A. Strauss]*

Alexis Strauss  
Director, Water Division

cc: Thomas R. Pinkos (CVRWQCB)  
Stan Martinson (SWRCB)  
Claudia Fabiano (Mail Code 4305)